(Prepared remarks)

Delivered Feb. 7, 2005
To the PIA's Educational Forum

Good afternoon.

Almost 30 years ago, Hollywood producer Mel Brooks was writing, directing and starring in a little movie that spoofed Alfred Hitchcock and more than a dozen of Tinseltown's classic movies.

It wasn't critically acclaimed and it didn't do much at the box office, but I mention it here today because I'm willing to bet that there are a lot of people in our industry and maybe even some in this room right now who could pass a screen test for that particular movie with flying colors.

The movie was "High Anxiety."

If you saw it, you might recall that Brooks starred as the director of a mental facility described as an "institute for the very, very nervous."

Frankly, I'm a little nervous myself.

And, I might add, frustrated.

I say this because I'm wary and concerned about deals being cut in places like New York and California with the heavy hitters in the commercial market . . .

. . . Deals that might eventually shake out some consequences right here in the other Washington.

I know that you're keenly interested in this subject, and I promise that I'll discuss some details and try to answer some of your questions in a minute.

But first, I want to briefly touch on some positive things we've accomplished during my first term as your Insurance Commissioner.

Speed to market and other improvements

I always hear rumblings "out there" about how long it takes to get new insurance products to market . . . or how we need more competition in the market . . . or how much easier it is to get products approved in another state.

Let me set the record straight.

1. **Do you know how quickly we approve a new insurance product?**

   29 days from start to finish for a new product to get to market.

   That's a 40 percent improvement in the last 2 1/2 years

   We welcome and encourage legitimate products that add value to consumers.

2. **We also welcome new companies into the market**

   When I took office four years ago . . .

   . . . It took 13 months to approve a new company to do business in Washington.

Today we accomplish this task in a few short weeks.

That's a 90 percent improvement.

3. Company appointment changes

As the law stands right now now, if you've been appointed for a company, you can't write any business until your appointment and fee have been received by my office.

Our Omnibus bill in the 2005 Legislature will give me authority to write rules that let you start writing business immediately upon appointment by allowing up to 30 days for the appointment and fee to be provided to the OIC by your new company.

This is particularly useful given that some major insurers – often direct writers – can submit up to 1,000 new appointments to us at a single time, resulting in delays.

We expect to alleviate much of that by implementation of the National Insurance Producer Registry Electronic Appointments and Terminations system — NIPR — which allows bulk electronic transactions.

Current plans have us up and running on this program by mid-year.

4. Licensing improvements

We've got a hearing on a new continuing-education rule later this month, the first major review of this program in some twenty years.

I want to thank Clark Sitzes for his help on this. Basically, the CE requirement is being reduced from 32 hours every two years, to 24 hours, bringing us in line with the NAIC model.

We're also making changes that are designed to:

- Make processes such as course approval and proof of compliance more user friendly
- Recognize the role of technology and the Internet in providing continuing education
- Improve course relevancy

Accomplishments like these don't occur by accident. They are results of setting priorities and crafting business plans.

Regulation doesn't have to be a contact sport

I don't think that insurance regulation has to be a form of hand-to-hand combat. I personally believe that we can have balanced regulation AND a dialogue with the industry about policy.

To that end, every Friday during the legislative session, I invite industry representatives to my office for a brown bag lunch discussion.

And throughout the year, I consult regularly with a pair of agent and broker advisory groups – one for the property and casualty market and the other representing the life and disability lines.

The bottom line here is that I value clear and concise communication as I go about my duties regulating our state's

insurance market, protecting consumers and fostering a competitive marketplace.

A rising tide

Last year, there was a rising tide in a national discussion of whether insurance regulation should take place at the federal level or remain state-based.

The debate developed pretty much along lines of speed-to-market on the industry side and consumer-protection in the state-based camp.

Then that debate unexpectedly shifted dramatically on two emerging issues.

The first involved the national disgrace of military servicemen and women being victimized by predatory insurance sales practices and products.

I'll use this as an example that our state-based system is working just fine here in Washington.

Unsavory and deceptive sales pitches to the men and women in our military wasn't a factor here because we didn't allow these predatory companies into the Washington market in the first place.

That wasn't the case in dozens of military bases in other states across the nation.

Which now brings us to the second issue that has consumed this national debate, sending it in another direction.

I'm talking about Eliot Spitzer's October bombshell on the issue of broker compensation practices.

You may recall that prior to Spitzer's campaign, the state-vs-federal debate was bringing a huge amount of pressure to deregulate the large commercial market.

Conventional wisdom held that these accounts involved savvy and sophisticated buyers who didn't need or require a high-degree of protection.

Well, we now know that at least $1.7 billion worth of protection was needed somewhere along the line . . . and that number represents only one player's misconduct, admittedly the nation's largest insurance brokerage, in this still-emerging scandal.

So, where do we find ourselves right now, especially here in Washington?

Unfortunately, I can't tell you specifically. At the national level it appears that we have a few bad actors who have created a firestorm with the potential to spread like a wildfire across our industry.

Is Washington in this path of destruction?

I can't really say at this point. I know that we're much better positioned than many states. We already have laws that require brokers to disclose compensation incentives that may represent a conflict of interest, real or perceived.

Our law impacts not only brokers – but agents also licensed as brokers – when they are compensated in each capacity.

It does not apply to a pure appointed agent relationship.

As an aside, you might be aware that Washington has been under considerable pressure – from the NAIC and insurers, and to some extent producer groups – to adopt the NAIC Producer Model Act.

This brings a question to my mind, one that perhaps you can help me answer.

Given the current state of events and the uncertainties as to where it all may lead, does it make sense to abandon the established statutory broker/agent distinction?

Does such a change truly benefit individual, independent agents, or does it merely blur the lines and serve to facilitate the end of the contingent commission system as you currently know it?

I am formulating answers to these questions, and it would certainly be helpful for me to hear your views on this issue.

Additionally, the NAIC is continuing to work on a "Section B" of the model act which includes:

- Recognition of a statutory fiduciary duty of producers
- Disclosure of all quotes received by a broker
- Disclosures related to agent-owned reinsurance arrangements

As you might imagine, this has generated more than a little heat, particularly in light of an existing body of strong case law that defines the duties and loyalties of agents and brokers.

Where this might ultimately end up is anybody's guess right now.

But here's what we do know.

Even as the reverberations from Spitzer's lawsuit and investigations were spreading across the nation, we addressed the issue here in our state with a technical assistance advisory (TAA)

. . . Reminding brokers and insurance companies of their lawful duties and responsibilities to insured parties under Washington law.

So do we have a problem in Washington?

That's precisely what we've set out to learn.

We launched our own investigation in early November, sending letters to the top 10 brokerages in the state, and the top seven Washington-based insurance companies.

These letters instructed the brokers and companies to send us documents, records and other information that will enable us to assess whether and to what extent improper practices have affected consumers.

We now have a room set aside at the OIC that is rapidly filling with boxes and boxes of documents and information.

We have accountants, examiners and lawyers, wading through stacks of information, analyzing compensation arrangements and following the money-trail through transactions.

And we've found instances of disturbing practices. How it all fits and if it constitutes improper behavior, is still to be determined.

But I'm confident that when we've completed this task, we will know if misleading practices have occurred here, and if they have, you can be certain there will be swift and sure consequences for violators.

How long will this take?

We're not going to have any definitive answers anytime soon, but we should have a pretty good assessment in hand toward the end of the year.

Meanwhile, I want you to know that I'm not panicking and neither should you.

And don't confuse me with Eliot Spitzer.

I can promise you one thing: I am very much aware of the effect my actions can have on the market – both for consumers and the industry.

The market needs predictability and stability. My approach is to identify and define the problem **before** I settle on a solution.

But I also recognize that uncertainties and turmoil do not encourage a predictable and stable market.

Accordingly, we're striving to get our arms around this issue, get it resolved and move on.

I and other regulators across the nation do not yet have the answers to many of the big-picture questions you might have about "where does this all end" and "what impact is all of this going to have on my individual business."

But I think that an assessment of the industry right now provides strong evidence that changes are not going to be dictated by regulators.

Changes will result from decisions made within the industry itself.

Meanwhile, at this point, we're not even certain what the Spitzer investigations have uncovered and if they involve anyone in our state.

I can tell you that I participated in a nation-wide conference call the other day with my fellow regulators in other states and volunteered to head up a small workgroup involving a half-dozen other states.

We going to ask officials in New York to share names and other details from their work.

Eventually, time will give us the answers, but I don't think I'm letting any cat out of the bag here when I say that there are indications that the industry already is moving and taking steps to change practices and adjust compensation programs.

And if you've spent any amount of time in the insurance industry, you already know that where one large player goes, many follow. This situation is still evolving.

But I can make some promises to you here today.

Unlike events transpiring in other states, you can be assured that I won't overreact to grab a headline at the expense of the industry.

I need proof that something was wrong, and right now it isn't apparent that we've got a problem here.

We all need to be mindful that insurance is a business built on trust. We must do everything we can to ensure that everyone involved in this business strives for integrity through good faith, honesty and equity in all insurance matters.

So with that in mind, let me pose a question to you.

As a vital and fundamental segment of this industry, should you perhaps rethink the way that you're selling yourself?

I don't know the answer to that question. But it might be something that you, as a vital segment of this industry, might want to consider.

So what does the future hold for broker commission fees?

I consulted my crystal ball and the results were inconclusive. But I think it was interesting last week when Spitzer said he wasn't prepared to recommend contingent commission fees be banned industry-wide.

He suggested that there may be contexts where contingent agreements might not usurp decision-making and fiduciary duty.

And on that interesting, and somewhat unexpected note, I will conclude my remarks and try to answer some of your questions.

Thank you.